

1 **BEFORE THE ARIZONA REGULATORY BOARD**
2 **OF PHYSICIAN ASSISTANTS**

3 In the Matter of

4 **JAN HUGHES, P.A.-C**

5 Holder of License No. **2572**
6 For Practice as a Physician Assistant
7 In the State of Arizona.

Case No. PA-03-0036A

**FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER FOR A LETTER
OF REPRIMAND AND PROBATION**

8 The Arizona Regulatory Board of Physician Assistants ("Board") considered this matter at
9 its public meeting on March 1, 2006. Jan Hughes, P.A.-C ("Respondent") appeared before the
10 Board with legal counsel Mary Pryor for a formal interview pursuant to the authority vested in the
11 Board by A.R.S. § 32-2551. The Board voted to issue the following findings of fact, conclusions
12 of law and order after due consideration of the facts and law applicable to this matter.

13 **FINDINGS OF FACT**

14 1. The Board is the duly constituted authority for the regulation and control of
15 physician assistants in the State of Arizona.

16 2. Respondent is the holder of license number 2572 for the performance of
17 healthcare tasks in the State of Arizona.

18 3. The Board initiated case number PA-03-0036A after receiving a complaint alleging
19 Respondent prescribed medication to several patients without performing a physical examination
20 or having previously established a professional relationship. The complaint also alleged
21 Respondent had been working without a supervising physician from May through November
22 2003. During an investigative interview with Board Staff Respondent admitted her initial narrative
23 response to the Board contained false information. The Board's investigation also revealed
24 Respondent had issued refills for prescriptions for which she was not authorized. A pharmacy
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1 audit of prescriptions written by Respondent from 2002 to 2004 revealed Respondent had
2 prescribed to patients beyond the fourteen days allowed.

3 4. Respondent apologized to the Board, to her profession, to her former supervising
4 physician, to her attorney, and to her current employer. Respondent testified she had given much
5 thought to why she sits before the Board and the events that led her to the Board. Respondent
6 admitted to many of the allegations as described by Staff. Respondent testified she did not do
7 them blatantly and she did not feel she was not required to follow the rules. Respondent testified
8 she did not take the time at the beginning of her profession to familiarize herself with the rules
9 and regulations as she should have. Respondent testified when she prescribed she did so using
10 prudent judgment.

11 5. The Board asked Respondent how she responded to the allegation of prescribing
12 without conducting a physical examination or having a previously established professional
13 relationship. Specifically, prescribing to GH as far back as September 26, 2002 when GH did not
14 become a patient of her supervising physician until January 30, 2003. Respondent testified she
15 had been married to GH at some point in time and he was under a physician's care for the
16 medications listed and had been on some of the medications for long term. Respondent testified
17 she and GH divorced, but remained friends. Respondent testified GH was in a situation where he
18 had no insurance and was unable to afford to continue seeing his psychiatrist who had previously
19 prescribed the medications. Respondent testified GH came to her and asked her to prescribe the
20 medications. The Board asked Respondent why, when GH came to her, she did not perform a
21 physical examination or document she was prescribing medication to a person who was not a
22 patient of her supervising physician. Respondent testified she would not likely have seen a
23 patient like GH for psychiatric reasons at the family medicine practice where she was then
24 employed. Respondent noted she supposed her options at the time should have been to tell GH
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1 he needed to see a psychiatrist, establish a professional relationship with her, make an
2 appointment at her practice, or go to the County Hospital where he would have qualified for care.

3 6. The Board asked Respondent if she sees a patient who is not a member of the
4 practice for a medical condition outside the scope of the practice would she normally conduct a
5 physical examination and history and document it before writing a prescription. Respondent
6 testified she would normally see the patient in the office and perform a thorough history and
7 physical. The Board asked Respondent if she was aware in 2002 and 2003 of the statute limiting
8 the amounts of controlled substances she could prescribe. Respondent testified that upon
9 graduation from PA school she was aware of the restriction of forty-eight hours for controlled
10 substances and when the statutes changed she was aware of the change.

11 7. The Board asked Respondent if she was currently employed as a PA.
12 Respondent testified she was and identified her supervising physician. The Board asked
13 Respondent if she had prescription writing privileges for Class II and Class III narcotics.
14 Respondent testified she did and noted she can prescribe these agents for up to fourteen days.
15 Respondent also noted her current supervising physician was aware of the Board's proceeding.
16 The Board asked Respondent if, when she was prescribing the medications, she was aware that
17 what she was doing was unprofessional conduct or not legally appropriate. Respondent testified
18 she was not and she takes full responsibility for not having read the statutes and not being aware.
19 Respondent testified she guessed she formulated the thought that she was using prudent
20 judgment to write prescriptions or treat someone. Respondent testified she had a good
21 understanding of what was presented to her by the person, had known the person and the
22 background, and she thought that was all that was required. Respondent testified she did not
23 know she needed to establish and document an office visit and any prescriptions. Respondent
24 noted she now knows this.

1 8. Respondent was asked if she was aware, in terms of prescribing controlled
2 substances, that her actions as a PA could have a direct impact on her supervising physician.
3 Respondent testified she was not so aware at the time and, if she had been, she would not have
4 done such a thing. Respondent again testified she felt she was using prudent judgment and was
5 functioning within the realm of her degree as a physician assistant. The Board asked
6 Respondent to address the significant period of time there was no supervising physician for her
7 on record with the Board. Respondent testified when she was hired at her current practice all the
8 correct paperwork was filed with the Board with the name of her supervising physician. This
9 physician retired and Respondent had to submit a new notification. Respondent noted the
10 practice is very large with twenty-eight physicians and thirty-nine mid-level practitioners.
11 Respondent testified there are two full-time credentialing specialists who assist staff in getting
12 paperwork in on-time and up-to-date. Respondent testified the standard for the practice was that
13 the credentialing specialist would fill out the paperwork, it would be presented to her, she would
14 review it and sign it, and then it would be mailed to the Board. Respondent testified somehow the
15 credentialing specialist never completed the process and did not mail the paperwork to the Board.
16 Respondent testified it has since been corrected and she has letters with her that show she was
17 under the direct supervision of three neonatologists at all times. The Board asked Respondent if
18 she met with these physicians with any regularity to go over cases. Respondent testified she met
19 with them every single day.

20 9. The Board asked Respondent if, given her ability to prescribe scheduled drugs for
21 fourteen days, she had in place at her practice a way of logging or auditing her prescribing.
22 Respondent testified shortly after the statute changed the Board asked supervising physicians to
23 file a plan with Board. Respondent testified the plan at her place of employment is that when she
24 writes a medication she takes the patient label and puts in on a page for that month with the date,
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1 time, medication, dose, and the reason given. The Board asked Respondent how often her
2 supervising physician reviews that record. Respondent testified it is reviewed every ninety days.

3 10. The Board noted the seriousness of the allegations against Respondent and asked
4 Respondent why she should be allowed to continue practicing. Respondent testified she
5 understood the Board's concern and she had so many things she would like to come across to
6 the Board, but under the circumstances, she was having difficulty. Respondent testified she has
7 been in the health care industry with the same hospital since 1988 and has an outstanding record
8 as an employee. Respondent testified she left her employment in 1999 and went to PA school
9 and then returned. Respondent noted she had no disciplinary actions from the Board in the past,
10 and as a PA at her current employer, she has an outstanding record and there have been no
11 disciplinary actions. Respondent testified when she looks over the prescription writing in some
12 respect she was shocked to see what she had assisted GH with and finds it somewhat
13 questionable to what extent she was involved with that. Respondent testified she can only say
14 she has learned her lesson and has paid with personal embarrassment, professional
15 embarrassment, personal stress and financial stress. Respondent testified she is in a practice
16 now where she treats pre-term or critically ill newborn babies and she is not in a situation where
17 she might even be approached for such favors. Respondent testified the majority of the people
18 involved in this case are aware of the allegations against her and all the legal proceedings she
19 has dealt with in the past two years. Respondent testified it was very hard for her to sit before the
20 Board and convince them that she will not do it again. Respondent testified when the Board's
21 investigation began she was dishonest, she was scared. Respondent testified as a single parent
22 she saw everything fall around her and she responded with extremely poor judgment when she
23 was dishonest with the Board. Respondent testified she acted out of fear of losing everything and
24 having to tell her children she lost her job. Respondent testified she is not making light of what

1 she has done, but she did not cause anyone harm and she did not use any of the medications
2 herself.

3 11. The Board noted Respondent's previous testimony that she used prudent
4 professional judgment in prescribing to GH. The Board asked Respondent if prescribing
5 Benzodiazepines for GH without really being his health care provider, keeping records, or doing
6 professional evaluations was prudent and professional. Respondent testified she would agree
7 that it would not fit her definition of prudent, professional judgment. Respondent testified when
8 she goes back and reviews the history from the pharmacy there are some gray areas where there
9 was initial prescription writing and multiple refills, not call-ins or office call type refills. Respondent
10 testified she did not recall writing Xanax in the amount or extent noted by the records.

11 12. The Board asked Respondent if her reference to "gray area" was a reference to
12 someone else calling in the prescriptions or was GH getting the prescriptions in another way that
13 was tied to her. Respondent testified she has no evidence of any such issues, but she knows by
14 her own practice and her own value system that she finds it within herself very hard to assist
15 someone in that amount of medication. Respondent testified there was a refill every ten to fifteen
16 days and that is a large amount, a huge amount. Respondent testified this was definitely not for
17 therapeutic use.

18 13. The Board noted it appeared the people Respondent prescribed to somehow had
19 an emotional effect on her and she appears to have taken the approach of putting herself at risk
20 rather than have to deal with their anger or dissatisfaction for not giving them what they wanted.
21 The Board asked Respondent if she had done anything to help herself get to the point where
22 such pleas from other people for her to do something inappropriate would no longer impact her.
23 Respondent testified sharing her experience with GH has been one thing that benefited her and
24 the entire experience has been earth shaking for her. Respondent testified in practicing at the
25 hospital she does not write prescriptions so she does not have access to a prescription pad.

1 Respondent noted if she were pressured there is no way she would be able to write a
2 prescription. Respondent testified she was not sure how to choose the words to convince the
3 Board that she will never do this again, except to say she will not. Respondent testified she has
4 learned her lesson and feels awful.

5 **CONCLUSIONS OF LAW**

6 1. The Board on the Regulation of Physician Assistants possesses jurisdiction over
7 the subject matter hereof and over Respondent.

8 2. The Board has received substantial evidence supporting the Findings of Fact
9 described above and said findings constitute unprofessional conduct on other grounds for the
10 Board to take disciplinary action.

11 3. The conduct and circumstances above constitute unprofessional conduct pursuant
12 to A.R.S. § 32-2501(21)(i) ("[p]rescribing or dispensing controlled substances or prescription-only
13 drugs in excess of the amount authorized pursuant to this chapter"); 32-2501(21)(p) ("[f]ailing or
14 refusing to maintain adequate records on a patient"); 32-2501(21)(r) ("[p]rescribing or dispensing
15 controlled substances to members of the physician assistant's immediate family"); 32-2501(21)(x)
16 ("[v]iolating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of
17 or conspiring to violate a provision of this chapter"), specifically, A.R.S. § 32-2534(A) ("[a]
18 physician assistant shall not perform health care tasks until the supervising physician receives
19 approval of the notification of supervision from the board"); 32-2501(bb) ("[k]nowingly making a
20 false or misleading statement on a form required by the board or in written correspondence or
21 attachments furnished to the board"); and 32-2501(21)(kk) ("[p]rescribing, dispensing or
22 furnishing a prescription medication . . . to a person unless the licensee first conducts a physical
23 examination of that person or has previously established a professional relationship with the
24 person . . .").
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1 ORDER

2 Based upon the foregoing, IT IS HEREBY ORDERED that:

3 1. Respondent is issued a Letter for Reprimand for the violations listed above.

4 2 Respondent is placed on Probation for one year with the following terms and
5 conditions:

6 a. Respondent shall obtain 20 hours of Board staff pre-approved Category I
7 Continuing Medical Education (CME) at the Physician Assessment and Clinical Education
8 ("PACE") program in ethics, to include appropriate prescribing and boundaries. Respondent shall
9 provide Board Staff with satisfactory proof of attendance. The CME hours shall be in addition to
10 the hours required for licensure renewal.

11 RIGHT TO PETITION FOR REHEARING

12 Respondent is hereby notified that she has the right to petition for a rehearing. The
13 petition for rehearing must be filed with the Board's Executive Director within thirty (30) days after
14 service of this Order. A.R.S. § 41-1092.09. The petition must set forth legally sufficient reasons
15 for granting a rehearing. A.A.C. R4-17-403. Service of this Order is effective five (5) days after
16 date of mailing. If a motion for rehearing is not filed, the Board's Order becomes effective thirty-
17 five (35) days after it is mailed to Respondent.

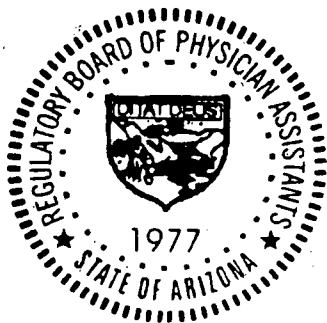
18 Respondent is further notified that the filing of a motion for rehearing is required to
19 preserve any rights of appeal to the Superior Court.

20 DATED this 18th day of May, 2006.

21
22 ARIZONA REGULATORY BOARD OF
PHYSICIAN ASSISTANTS

23 

24 TIMOTHY C. MILLER, J.D.
25 Executive Director



1 Original of the foregoing filed this
2 18th day of MAY, 2006 with:

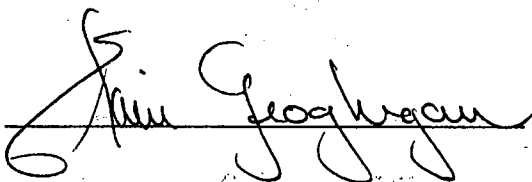
3 Arizona Regulatory Board of
4 Physician Assistants
5 9545 East Doubletree Ranch Road
6 Scottsdale, Arizona 85258

7 Executed copy of the foregoing
8 mailed by U.S. mail this
9 18th day of MAY, 2006, to:

10 Mary Pryor
11 The Cavanagh Law Firm
12 1850 North Central Avenue – Suite 2400
13 Phoenix, Arizona 85004-4527

14 Jan Hughes, P.A.-C.
15 Address of Record

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A handwritten signature in cursive script, appearing to read "Jan Hughes", is written over a horizontal line. The signature is located between lines 11 and 13 of the document.